

MEETINGS: 14
NO. OF REGULAR: 13

VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW
September 23, 2019 7:00PM

ROLL CALL: Trustee Jakubowski – Pr
Trustee Stempniak - Pr
Trustee Hamernik - Pr
Trustee Voll - Pr
Mayor Peterson– Pr

ON A MOTION BY, Trustee Jakubowski, and seconded by Trustee Voll the September 9, 2019 Village Board Minutes were approved.

ON A MOTION BY, Trustee Stempniak and seconded by Trustee Hamernik the Planning Board Minutes September 5, 2019 were approved:

1. Carmina Wood Morris on behalf of James Basil - 5190 Transit Road. Site plan review of a proposed 2,817 sq. ft. office building with associated parking. Accepted as submitted

ON A MOTION BY, Trustee Voll and seconded by Trustee Jakubowski the Zoning Board Minutes September 12, 2019 were accepted:

1. Jordan McGregor of 302 Columbia Ave. He is requesting a permit to have his driveway less than 3ft from the property line as required by the Village Ordinance. – Granted.
2. Tara Mathias on behalf of The Broadway Group LLC, for property located at 3230-3236 Walden Ave.
 - a. Permit to erect free standing, single tenant, commercial store with at reduced front yard setback from 30ft to 8ft. – Granted
 - b. Permit them to reduce the number of parking spaces from 34 to 30. – Granted
 - c. Permit them setback relief of the vehicle use area (Variances of 7ft. Front, 9ft side, and 17ft. rear)- Granted
 - d. Allow them to have a loading facility in the rear yard setback adjoining a residential area as required by Village Ordinance– Granted
3. Christopher Cicarrelli of 4639 Broadway. Requests are as follows:
 - a. Permit him to re-establish an auxiliary dwelling unit about a detached garage. – Denied
 - b. Permit him to exceed the maximum height of an accessory structure as required by Village Ordinance. – Withdrawn by applicant.

At this time the Mayor explained good and bad that happens, for example he received a thick letter about a bridge on Warner, he explained that bridges are responsibilities for the Town, culverts are the Village's. The Whacky Wednesday Kids who visit their Grandmother every Wednesday live near the bridge and walk there every week, the Spitting bridge as they named it, wrote him a letter and drew pictures of the bridge and asked if the Village could do something about painting it. The Mayor was out with Tony, Ken and the Village Engineer on another note and decided to stop by the bridge. Ken stepped up and said his guys could scrape and paint the bridge. The kids were present and they are: Maria Picollo, Anthony Picollo, Cole Picollo, Augy Picollo and Grey Picollo. Mayor Peterson read them proclamations he had for each of them thanking them for bringing it to his attention. The all came to the front of the room for their proclamations and to have their picture taken, to a big round of applause.

PUBLIC COMMENT N/A

ADOPT LOCAL LAW #4 OF 2019 –TREE LAW

Trustee Stempniak, offered the following resolution and moved for its adoption:

WHEREAS, on September 23, 2019 the Village of Depew held a public hearing in the Council Chambers of the Municipal Building, 85 Manitou St, Depew, NY to adopt of a local Tree Law.

and

BE IT RESOLVED: The administrator is authorized to file the Local Law #4 of 2019 Village of Depew, New York to read:

§ 225-1. Title.

This chapter shall be known and may be cited as the "Tree Law of the Village of Depew, County of Erie."

§ 225-2. Purpose.

The proper planting of new trees and the health and maintenance of existing trees within the public right-of-way aid in maintaining property values in the Village of Depew, implement the design and environmental goals of the comprehensive plan, and promote the general welfare of the Village of Depew residents. This chapter will:

- A. Create a Tree Committee to establish regulations governing the planting, maintenance, and removal of trees and shrubs in the public streets, rights-of-way, parks and other municipally owned property in the Village of Depew;
- B. Preserve green foliage on village streets and public property; and
- C. Replace or remove permanently trees that must be removed from public property because of disease or lack of development.

§ 225-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADJACENT PROPERTY OWNER - The person, firm, entity, or corporation owning property bordering a village street. The adjacent property owner to a public tree shall be the owner of property located on a perpendicular with the street line through the center of the tree four feet above the edge of pavement of a roadway.

DIAMETER BREAST HEIGHT (DBH) - Tree trunk diameter measured in inches with a calipers at six inches from grade in the case of trees measuring four inches or less in diameter; and at a height 4 1/2 feet above grade when the tree trunk is larger than four inches.

DRIPLINE - A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

NUISANCE - Any thing or act that annoys or disturbs unreasonably, hurts a person's use of his or her property, or violates the public health, safety and welfare.

PARK - Includes land designated as a park pursuant to New York State statutes as well as areas such as playgrounds, pools or other recreational facilities within the village under the jurisdiction of the Village Board of Trustees.

PUBLIC PLACES - Includes all grounds owned, leased or controlled by the Village of Depew, County of Erie, for public use.

PUBLIC TREE - Any woody plant, located on municipal property or within the municipal right-of-way, having at least one well-defined trunk and at least 2 1/2 inches in diameter measured at a height of six inches above the natural grade and having a clearly defined crown.

ORNAMENTAL TREES -- Small to medium trees that grow 15 feet to 40 feet in height at maturity, and that are planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

SHADE TREES -- A large tree growing to over 40 feet in height at maturity, usually deciduous, that is planted to provide canopy cover shade.

SEVERE ROOT PRUNING - Cutting back the underground tree roots inside 1.5 times the dripline of the tree that will be detrimental to the life of the tree.

STREET - A highway, road, avenue, lane, alley, culvert, embankment, or sidewalk which the public has a right to use.

STREET TREE - Any tree, shrub, bush, or other woody vegetation on land lying between property lines on either side of all streets, avenues or roads, such as the municipal right-of-way.

TOPPING - Severe cutting back of limbs to stubs larger than three inches in diameter within the tree crown to such degree so as to remove the normal canopy and disfigure the tree.

TREELAWN - The green space adjacent to a street or highway, not covered by sidewalks or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

TREE MEASUREMENT - Also known as "diameter breast height."

TREE WORK - Includes, but is not limited to, pruning, shaping, thinning, cabling, stump removal, root pruning, topping, fertilizing, removing, planting, and spraying for insect and disease control, of a tree.

UTILITIES - Those entities that provide electricity, gas, sewer, water, telephone and cable television to properties within the village.

§ 225-4. Tree Committee established.

A. Establishment; membership; terms.

- (1) The Village Board of Trustees shall create an advisory committee known as the "Village of Depew Tree Committee." The Committee shall consist of five members, all of whom shall be residents of the village. In addition, the Village Code Enforcement Officer, the Village Engineer, and a Village Trustee shall serve as ex officio members of the Committee. Each member shall be appointed by the Mayor, subject to approval by the Board of Trustees.
- (2) The members shall be appointed initially as follows: two members shall be appointed for a term of one year; two members shall be appointed for a term of two years; and one member shall be appointed for a term of three years. Thereafter, all appointments shall be for three years.
- (3) If a Committee member does not serve the full term for reasons other than the expiration of the term, the Mayor shall appoint a successor, to serve for the unexpired term.

B. Tree Committee duties. The Tree Committee shall have the following duties that include, but are not limited to:

- (1) Studying, investigating, developing and/or updating the Village's written plan for caring, preserving, pruning, topping, replanting, removing or disposing of trees and shrubs in parks, along Village streets, and in other public areas.
- (2) Maintaining reference materials relating to trees and shrubs.
- (3) Providing an inventory of the location of street trees and determining areas where such trees could exist but are absent.
- (4) Establishing a suggested species list for the village and recommending to the village the type and kind of trees to be planted upon village property.
- (5) Identifying trees for immediate removal.

- (6) Providing a long-range plan every five years for the Village relating to street trees and shrubs.
- (7) Providing the Village Board of Trustees with a yearly estimate of personnel costs and the cost of nursery stock to be used. Such plan shall be presented annually to the Board.

C. Meetings.

- (1) The Committee shall meet a minimum of six times each year. The Committee may call additional meetings as needed.
- (2) If a Committee member misses four consecutive meetings, the position will be deemed vacant.

§ 225-5. Municipal responsibility.

- A. The municipality or its agent shall perform all necessary maintenance to preserve and protect street trees in a safe and healthy condition, including trimming, spraying, fertilizing, watering, staking, topping, root pruning, mulching, treating for disease or injury, and removal if necessary.
- B. The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of village streets and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- C. The Village Tree Committee may recommend a tree or part of a tree be removed if the tree or tree part:
 - (1) Poses a potential public safety risk or hazard; or
 - (2) Causes an unsafe condition; or
 - (3) By its nature, is injurious to sewers, electric power lines, gas lines, waterlines or other public improvements; or
 - (4) Is affected with any injurious fungus, insect or pest.
- D. No property owner shall be permitted to allow a tree, shrub, or other plant growing on his or her property to obstruct or interfere with the view of drivers of vehicles or pedestrians on the sidewalk to create a traffic hazard. If such tree, shrub or other plant does overhang or does otherwise adversely affect any street, sidewalk, or right-of-way within the village, the property owner shall, at the owner's expense, prune the tree, shrub or plant so that it shall not obstruct the view of any street intersection or obstruct or hinder passage on any street or sidewalk. If an owner must trim a tree, shrub, or other plant, the owner must provide for a clear space of eight feet above the surface of the sidewalk and up to 14 feet above the surface of the street after consultation with a certified arborist.
- E. If an obstruction persists, the Code Enforcement Officer shall mail a notice, in writing, to the property owner to prune or remove the tree, shrub or plant within 10 days. If the owner fails to comply with the notice, the Village may undertake the necessary work and charge the cost for such work to the property owner. If such charge remains unpaid for 60 days, the expense shall be added to the next real estate tax bill of the property owner.

§ 225-6. Prohibited actions.

- A. No person or utility shall plant, spray, fertilize, treat, prune, remove, cut above ground, disturb the root system or otherwise disturb any public tree or shrub on any village street, park or public place without a permit.
- B. Further, no person shall fasten or attach to any tree any sign, poster, bill, notice or advertisement of any kind.

- C. No person or utility shall cause or permit any brine, oil, gasoline, liquid dye or other substance deleterious to tree life to lie, leak, pour, flow or drip on or into the soil about the base of a tree which could injure such tree.
- D. No person shall fasten or cause to be fastened any animal to a tree in any street or public place or permit any animal owned by him or in his charge to stand so near any such tree that the tree may be gnawed or otherwise injured by the animal.
- E. No trees shall be planted or allowed to grow on private or public lands within the limits of, or which will interfere with, any drainage, sewer, water, or utility easement.

§ 225-7. Planting and maintenance.

- A. Application to plant. No one, except the Village of Depew or its agents acting in the Village's behalf, shall plant a tree or shrub upon Village property or upon a Village treelawn without first submitting an application to the Tree Committee on forms provided by the Committee.
- B. Information required. Anyone submitting an application shall state the number of trees to be set out; the location, species or variety of each tree to be planted; the method of planting; and any other information as the Tree Committee shall find reasonably necessary for its recommendation to the Code Enforcement Officer to issue the appropriate permit.
- C. Removal, replanting and replacement. No one except the Village of Depew or its agents acting on the Village's behalf, shall remove, replant or replace a tree from Village property or the treelawn for any reason without first applying to the Tree Committee on forms provided by it and receiving a permit from the Code Enforcement Officer. Such replacement shall meet the standards of size, species and placement as set by the Tree Committee according to specifications set forth by this chapter in § 225-12.
- D. Notice of completion. Notice of completion shall be given to the Code Enforcement Officer so a final inspection may be made
- E. Costs.
 - (1) The costs initiated by the adjacent property owner for tree planting, tree removals, or tree replacements shall be borne by such adjacent property owner. The Tree Committee may suggest to the Village that the Village share in the expense of this work or may perform this work wholly at the Village's expense as long as such expenses are within budget limitations established annually by the Board of Trustees.
 - (2) The costs for work performed by or for utilities shall be borne by the respective utility.

§ 225-8. Removal of dead and diseased trees from private property.

Private property owners have the duty, at their own expense, to cut down and remove any trees upon their property which are dead, harbor insects or disease, or which are so damaged as to be a public nuisance and in danger of falling, thereby causing damage to person or property of others. The Village Tree Committee shall recommend to the Code Enforcement Officer to provide the property owner with written notification that a tree or shrub should be removed for the reasons stated above. Owners shall, at their own expense, remove such trees. Owners shall have 15 days after the date of service of the notice to inform the Code Officer as to when the tree shall be removed. Owners shall have no more than 30 days after informing the Code Officer to remove such trees unless the Code Officer indicates otherwise in writing. If owners fail to comply with such provisions, the Village shall remove such trees and charge the cost of removal to the property owner upon notice and hearing. If the cost of

such removal remains unpaid for 60 days, the cost of removal shall be added to the next real estate tax bill of the property owner.

§ 225-9. Topping and root pruning trees.

It shall be unlawful for any person, firm, entity, corporation, or utility to top any street tree or shrub, or to engage in severe root pruning. Trees severely damaged by storms or certain trees under utility wires or other obstructions, where other pruning practices are impractical, may be exempted from this chapter upon the recommendation of the Tree Committee.

§ 225-10. Trees near excavation or construction.

- A. No person or utility shall excavate any ditches, tunnels or trenches, or lay any drive within the dripline of a public tree without first obtaining a permit from the Code Enforcement Officer.
- B. No person or utility shall remove a tree or shrub from the treelawn for the purpose of construction or for any other reason without first filing an application and receiving a permit from the Code Enforcement Officer.
- C. All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work shall be guarded with a substantial fence, frame, or box not less than four feet high. Whenever possible, the diameter of such fence, frame or box should be at least one and one-half times the dripline. At no time shall the fence, frame, or box extend beyond the sidewalk into the street, nor shall such fence, frame, or box cause a hardship for those using the sidewalk.
- D. When construction, excavation, and/or material deposits result in the destruction and/or removal of a street tree, the person or utility responsible for that damage shall replace the street tree with either a tree or trees of equivalent dollar value in the vicinity of the removed street tree.

§ 225-11. Interference with tree work.

No one shall hinder, prevent, delay, or interfere with the Village of Depew or its agents, including the Tree Committee, or any of its assistants, or any contractors while engaged in carrying out the enforcement of this chapter or duly adopted regulations.

§ 225-12. Specifications and standards of practice.

- A. The Village of Depew hereby adopts the Arboricultural Specifications and Standards of Practice of the International Society of Arboricultural as published under American National Standard for Tree Care Operations (ANSI A300-1995) or the most recent edition (a copy of which is available for review).
- B. All tree work done by or in the Village of Depew shall conform to these specifications and standards.

§ 225-13. Penalties for offenses.

Any person, firm, entity, or corporation violating or failing to comply with any of the provisions of this chapter shall be guilty of a violation, and upon conviction thereof shall be fined no more than \$250 or may be imprisoned for a term not exceeding 15 days, or both.

§ 225-14. Severability.

If any section, paragraph, sentence, clause, or phrase of this chapter is found to be invalid by a Court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remaining portions of this chapter.

§ 225-15. When effective.

This chapter shall become effective immediately upon filing with the New York State Secretary of State.

The forgoing resolution was seconded by Trustee Jakubowski and **CARRIED**.

Trustee Jakubowski - Y
Trustee Stempniak -Y
Trustee Hamernik -Y
Trustee Voll - Y
Mayor Peterson – Y

APPOINT PART TIME POLICE DISPATCHER

Pursuant to Section 4-400 of Village Law, I Mayor Kevin Peterson, do hereby appoint

Lilia Busko

to the position of Part Time Police Dispatcher at the rate of \$15.55 per hour effective September 24, 2019.

The foregoing nomination was acted upon in the following manner by the Board of Trustees:

Trustee Jakubowski - Y
Trustee Stempniak -Y
Trustee Hamernik -Y
Trustee Voll - Y
Mayor Peterson – Y

Mayor Peterson introduced Lilia yo everone and asked what she was doing before, she is a matron at another department.

APPOINT FULL TIME RECREATION DEPT LABORER

Pursuant to Section 4-400 of Village Law, I Mayor Kevin Peterson, do hereby appoint

John Kress

to the position of Full Time Recreation Laborer at \$22.84 per hour effective September 24, 2019.

The forgoing nomination was acted upon in the following manner by the Board of Trustees:

Trustee Jakubowski - Y
Trustee Stempniak -Y
Trustee Hamernik -Y
Trustee Voll - Y
Mayor Peterson – Y

Mayor Peterson introduced John to everyone and he thanked the board. Told them that Kevin is a breath of fresh air at the Rec Dep't.

APPOINT PER DIEM ELECTRICAL

Pursuant to Section 4-400 of Village Law, I Mayor Kevin Peterson, do hereby appoint

Matt Wagner
Mitchel DelConte

to the position of Per Diem Electrical at the rate \$14.25 per hour in the event that they are called in to work, due to an absent electrician. This will not increase the budget.

The foregoing nomination was acted upon in the following manner by the Board of Trustees:

Trustee Jakubowski - Y
Trustee Stempniak -Y
Trustee Hamernik -Y
Trustee Voll - Y
Mayor Peterson – Y

PERMISSION – FIRE DEPARTMENT

Trustee Jakubowski, offered the following resolution and moved for its adoption:

WHEREAS, Depew Fire Department Ladder #5 is requesting permission to take the truck to The Swormsville Fire Department, 6971 Transit Rd, East Amherst, NY 14051 for the Emergency Vehicle Operations Course on Saturday October 19, 2019 from 8:00am – 5:00pm.

THEREFORE, BE IT RESOLVED: The above foregoing resolution was seconded by Trustee Hamernik and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski - Y
Trustee Stempniak - Y
Trustee Hamernik - Y
Trustee Voll - Y
Mayor Peterson - Y

PERMISSION –WAIVE PERMIT FEE

Trustee Hamernik, offered the following resolution and moved for its adoption:

WHEREAS, The Vine Wesleyan Church has requested permission to waive the tent permit fee for their fall festival on Saturday October 5, 2019.

NOW, THEREFORE, BE IT RESOLVED, that permission is hereby granted to The Vine Wesleyan Church to waive the tent permit fee for their fall festival on Saturday, October 5, 2019 which will take place on the church grounds from 11AM – 3PM.

The forgoing resolution was seconded by Trustee Jakubowski and **CARRIED**.

AUTHORIZE MAYOR TO SIGN MUNICIPAL SOLUTIONS CONTRACT

Trustee Voll, offered the following resolution and moved for its adoption:

WHEREAS, the Village of Depew would like to allow Municipal Solutions to apply for the grant applications for the Phase 4 Sewer project.

NOW THEREFORE BE IT RESOLVED, that Mayor Kevin Peterson is authorized to sign the Municipal Solutions, Inc. engagement letter to prepare a Water Infrastructure Improvement Act Grant and NYSEFC Clean Water State Revolving Loan Fund applications to assist in financing the Village’s Phase IV I&I Improvement Project.

The foregoing resolution was seconded by Trustee Stempniak and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski -Y
Trustee Stempniak -Y
Trustee Hamernik -Y
Trustee Voll - Y
Mayor Peterson – Y

PERMISSION – MEMBERSHIP – DEPEW FIRE DEPARTMENT

Trustee Hamernik, offered the following resolution and moved for its adoption:

BE IT RESOLVED, membership is hereby granted to the following in the Depew Fire Department pending the passing of his physical:

Engine One

Andrew J. Haire

The foregoing resolution was seconded by Trustee Jakubowski, and duly put to a roll call vote which resulted in the following:

Trustee Jakubowski -Y
Trustee Stempniak -Y
Trustee Hamernik -Y
Trustee Voll - Y
Mayor Peterson – Y

PROCLAIM OCTOBER 31, 2019 AS OFFICIAL TRICK OR TREAT NIGHT

Trustee Stempniak, offered the following resolution and moved for its adoption:

BE IT RESOLVED, the Official Trick or Treat Night in the Village of Depew, in conjunction with the Town and Village of Lancaster and the Town of Cheektowaga, is hereby designated as Thursday, October 31, 2019 between the hours of 6:00 PM – 8:30 PM.

The forgoing resolution was seconded by Trustee Hamernik, and **CARRIED**.

PERMISSION – DEPEW FIRE DEPT

Trustee Voll, offered the following resolution and moved for its adoption:

Permission is hereby granted to The Depew Fire Department to use the West End Fire Station for the Annual Open House on Saturday October 5, 2019 from 11:00 AM– 4:00 PM.

And

Permission is hereby granted to The Depew Fire Department to use the fire trucks to give rides to the residents that attend the October 5, 2019 open house at West End Station using the planned route from West End Fire Station to Babbette Dr, to Buffalo and Depew Rd, To Hyland Ave, to George Urban Blvd and back to West End Fire Station.

And

Permission is hereby granted to the Depew Fire Department to drive the winners of the coloring contests to school in the fire trucks. Dates to be determined. The trucks will be out of service during those times.

The foregoing resolution was seconded by Trustee Jakubowski and **CARRIED**.

EMPLOYMENT APPLICATIONS – Rec – Tessa Zajac, Jessica Notaro, and Juliet Pastore

DEPARTMENT HEAD REPORTS - Police Dept

UNFINISHED AND OTHER BUSINESS N/A

PUBLIC CONCERNS AND COMMENTS

Monica Wallace's representative, Elizabeth was present and reported that many activities are upcoming on 10/5 for the fall season, check the face book page for complete updates. Debbie from John Brusso's office was present and said the solar signs by school are almost complete and that they will work with the Depew High School to possibly get one there too.

Dave Burke, 5 Autumn Lea asked about the shed and bathrooms at Fireman's Park, will they be cleaned up? Mayor Peterson said they are working on possibly getting some funding for that. And also, why can't Depew do what Cheektowaga did and replace all the bad sidewalks, he can tell about 2 right now. The Mayor explained that their project was a complete over haul of all sidewalks at one time.

Ben Rogacki, 280 Olmstead asked about signs being placed on properties without permission and no, or very outdated, stickers on them. The Mayor and CEO took down the location names and areas and will look into it.

Don Corey wanted to thank everyone who responded to the restaurant fire, it could have been much worse, but the responders got there in time to salvage part of it. He thanked them very much. He was away at the time and appreciates them doing all they did.

CLAIMS AND ACCOUNTS

ON A MOTION BY Trustee Voll and seconded by Trustee Jakubowski and Trustee Hamernik, the following claims are to be paid: \$284,779.94 General, \$1415.92 Community Development, \$11,033.82 Capital Projects, \$294,229.68 Capital was **CARRIED.**

ADJOURNMENT

ON A MOTION BY Trustee Jakubowski, seconded by Trustee Stempniak, the meeting was adjourned with a moment of silence for Jack Edwards, Former Fire Chief at **8:00 PM.** The motion was **CARRIED.**

Respectfully submitted,

Teresa Wachowiak
Village Administrator